

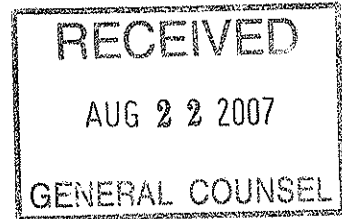
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August 21, 2007

Via Electronic Mail and
Overnight Mail



RECEIVED

AUG 22 2007
PUBLIC SERVICE
COMMISSION

David Samford, Esq.
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602

Re: *Consequences of Commonwealth v. KPSC, Franklin Circuit Court,*
No. 06-CI-269 (August 1, 2007)

Dear Mr. Samford:

We write in response to your invitation to supplement our remarks at the August 16, 2007 conference at the Commission respecting the above-referenced matter.

Acting as counsel for the Kentucky Industrial Utility Customers ("KIUC") we believe that the Court's decision has no immediate impact on the continued validity of the many surcharges and surcredits now operating within the many utility tariffs subject to the Commission's jurisdiction. It requires no citations to establish that the decision in that case only governs the AMRP of Duke Energy at issue in that case. While the Court's logic obviously argues against surcharges not specifically authorized by statute, or charges not specifically authorized in a rate case, its holding only extends to the issues and parties before it. Accordingly, we believe that those other surcharges and surcredits can and should continue unless and until they are brought before the Commission for consideration.

We think it inappropriate to reargue here the case that was argued before the Franklin Circuit Court. Nor does KIUC render an opinion regarding the merits of the Court's decision or its ultimate fate on further appeal. However, KIUC would cooperate in a joint effort to promote legislation specifically authorizing electric fuel clauses and purchase gas clauses to ensure that those valuable regulatory tools continue to operate. It is for that reason that KIUC has offered its nomination to serve on a KPSC legislative task force created for that purpose.

We thank the Commission for its prompt consideration of this potentially serious problem, but urge it not to take an expansive view of the Courts decision.

Very truly yours,

A handwritten signature in cursive script that reads "David F. Boehm".

David F. Boehm, Esq.
BOEHM, KURTZ & LOWRY

DFBkew

Cc: Beth A. O'Donell, KPSC Exec. Dir.